PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
043890-0786

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Signature _____

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Application Number	Filed
10/576,688	April 21, 2006
First Named Inventor	Hiroyuki HAYASHIKAWA, et al.
Art Unit	Examiner
2828	Kinam PARK

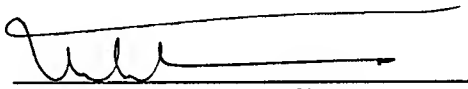
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☐ attorney or agent of record. Registration number _____
- ☒ attorney or agent acting under 37 CFR 1.34. Limited Recognition number L0250 if acting under 37 CFR 1.34



Signature

Babak Akhlaghi

Typed or printed name

202-756-8327

Telephone number

November 10, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms is submitted.

Docket No.: 043890-0786 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 53080
Hiroyuki HAYASHIKAWA, et al.	:	Confirmation Number: 7184
Application No.: 10/576,688	:	Group Art Unit: 2828
Filed: April 21, 2006	:	Examiner: Kinam PARK

For: GAS LASER OSCILLATOR

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of Examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Claims 1-3 are pending in this application, with claim 1 being independent. Claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent 02177582 ("Motomiya"). Claim 3 was rejected under 35 U.S.C. § 103(a) as being obvious over Motomiya. Applicants respectfully request reconsideration and withdrawal of this rejection for at least the following reasons.

REMARKS

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 because Motomiya, at a minimum, fails to describe or suggest a gas laser oscillator that includes, among other features, a clogged laying pipe judge part judging the pipe of the sub ejection apparatus to be clogged when the detected amount of the laser gas is smaller than a predetermined value, wherein the controller compares the amount of the laser gas which is detected at a time the valve of the main ejection apparatus is closed, with a predetermined value, as recited in claim 1.

Motomiya appears to describe a gas laser oscillator that includes an air blower (6), a gear case (12), a gear case valve (13), a laser gas pressure control valve (10), a gas pressure sensor signal (14), and a controller (15). Motomiya at Abstract. The controller (15) is configured to open or close the gear case valve (13) based on the open-close action of the gas pressure control valve (10), thereby keeping the gas pressure inside the gear case (12) constant. *Id.* Apparently, with this configuration the oil mist which flows out of the gear case (12) can be restricted to a minimum. *Id.*

The Examiner asserts that the limitation 'a clogged laying pipe judge part' is. . . anticipated by Motomiya since the state of clogged pipe is related with the pressure of the pipe depending upon the oil mist, and an automatic control circuit (15) controls the pressure valve based on the pressure of the pipe depending upon the oil mist. Advisory Action at page 2, lines 1-4. Applicants disagree.

As noted in Applicants' response filed on August 26, 2008, the alleged controller (15) is configured to control the pressure inside the gear case (12) and is not configured to *judge the laying pipe of the sub ejection apparatus to be clogged when the detected amount of the laser*

gas is smaller than a predetermined value, as recited in claim 1. That is, to the extent any judging is carried out by the alleged controller (15) in the relied upon portions of Motomiya, the judging is for controlling the pressure inside the gear case (12) and not for determining whether the pipe of the alleged sub ejection apparatus is clogged when the detected amount of the laser gas is smaller than a predetermined value. Indeed, the objective of Motomiya is to minimize the amount of oil mist that flows out of the gear case (12) by controlling the pressure inside the gear case (12) and not to determine whether clogging has indeed occurred inside the pipe of the sub ejection apparatus.

As such, even if the Examiner's assertion is correct that the state of the clogged pipe is related to pressure of the pipe, Motomiya in the relied upon portion still does not describe that the pressure inside the pipe is used to determine whether the pipe of the alleged sub ejection apparatus is clogged. Nevertheless and assuming for the sake of argument that Motomiya includes such teachings, they, at best, suggest determining whether the pipe of the sub detection apparatus is clogged based on pressure and not based on the detected amount of the laser gas.

Accordingly, Applicants continue to assert that Motomiya in the relied upon portions fails to describe or suggest a gas laser oscillator that includes, among other features, a clogged laying pipe judge part judging the pipe of the sub ejection apparatus to be clogged when the detected amount of the laser gas is smaller than a predetermined value, wherein the controller compares the amount of the laser gas which is detected at a time the valve of the main ejection apparatus is closed, with a predetermined value, as recited in claim 1.

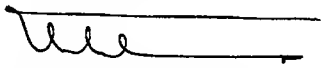
For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1, along with its dependent claims.

Moving forward, claim 2 recites a gas laser oscillator that includes an opening and closing cycle detector for detecting an opening and closing cycle of the valves of the gas supply apparatus when the valve of the main ejection apparatus is closed, wherein the clogged laying pipe judge part judging the pipe of the sub ejection apparatus is clogged when the detected opening and closing cycle is longer than a predetermined value. Nowhere, in the relied upon portions, Motomiya describes judging that the pipe of the sub ejection apparatus is clogged *when the detected opening and closing is longer than a predetermined value*. Furthermore, the Advisory Action fails to point to any portions of Motomiya describing the above-recited feature of claim 2.

For at least this reason and the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 2. Based on the foregoing remarks, withdrawal of the rejections and allowance of the application are believed to be appropriate and respectfully solicited.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



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